



## TEXAS STATE BOARD OF DENTAL EXAMINERS

333 Guadalupe, Tower 3, Suite 800, Austin, Texas 78701-3942  
Phone (512) 463-6400 Fax (512) 463-7452

### BOARD MEETING MINUTES

April 29, 2005

1. **CALL TO ORDER:** Dr. Irons called the meeting of the Texas State Board of Dental Examiners to order on April 29, 2005. The time was 8:05 a.m.
2. **ROLL CALL:** Dr. Villarreal called the roll. It was noted for the record that a quorum was present.
  - a. **Members Present:**

Dr. J. Kevin Irons	Presiding Officer
Dr. Juan Villarreal	Secretary
Mr. Oscar Garcia	Public Member
Ms. Amy Juba	Public Member
Dr. Gary W. McDonald	Member
Dr. Martha Malik	Member
Dr. Norman Mason	Member
Dr. George Strunk	Member
Dr. Paul Stubbs	Member
Dr. Nathaniel Tippit	Member
Mr. Charles Wetherbee	Public Member
  - b. **Members Absent:**

Ms. Tammy Allen, RDH	Member	(Excused)
Ms. Helen McKibben, RDH	Member	(Excused)
Ms. Marti Morgan	Public Member	(Excused)
Ms. Phyllis Stine	Public Member	(Excused)
  - c. **TSBDE Staff Present:**

Mr. Bobby D. Schmidt, M.Ed.	Executive Director
Mr. Ben Ablon	Director of Enforcement
Mr. Fread Houston	General Counsel
Ms. Sherri Sanders	Director of Licensing and Examinations
Ms. Heather Fritz	Attorney
Mr. Lorenzo Nieto	Attorney
Mr. Felipe Alonzo	Attorney
Mr. Rob Hill	Attorney
Mr. Nigel Prentice	Information Technology Specialist
Ms. Vicki Shoesmith	Executive Assistant

**d. Others Present:**

Ms. Norma Jean Sosa	Chair, SBDE Dental Hygiene Advisory Committee
Ms. Lois Palermo	Texas Dental Hygienists' Association
Ms. Holly Johnston	Professional Recovery Network
Mr. Kim Roberson	Texas Pharmacy Association
Ms. Erin Crock	Texas Academy of General Dentistry
Mr. Jay Bond	Texas Dental Association
Dr. S. Jerry Long	Texas Dental Association
Ms. Jenny Long	Texas Dental Association
Ms. Jennifer Riggs	Attorney with Riggs & Aleshire
Mr. Jon Porter	Attorney with McDonald, Mackay & Weitz, LLP
Dr. Misty J. Brown	Attending as per Agenda
Dr. Michael S. Goodrich	Public Guest
Dr. Chinmay Dave'	Public Guest

**A MOTION WAS MADE BY DR. TIPPIT, SECONDED BY DR. MASON, TO EXCUSE MS. ALLEN, MS. MORGAN, MS. STINE AND MS. MCKIBBEN FROM THE MEETING. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.**

**3. REVIEW AND APPROVAL OF PAST MINUTES.**

Dr. Irons entertained a motion to approve the Minutes of the January 14, 2005 Meeting of the Texas State Board of Dental Examiners.

**A MOTION WAS MADE BY MS. JUBA, SECONDED BY DR. STUBBS, TO APPROVE THE MINUTES AS AMENDED FROM THE JANUARY 14, 2005 MEETING. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.**

**4. COMMITTEE REPORTS.****a. Enforcement Committee Report.**

Dr. Villarreal reported that the Enforcement Committee met on April 28, 2005 at 1:00 p.m. Among the agenda items was a discussion on updating Rule 108.8, Records of the Dentist. Currently, Rule 108.8 does not include information regarding the cost of duplicating models.

Mr. Houston stated that there are two proposals on amending this Rule, 1) whether or not there should be a maximum cap on reasonable costs for fees on duplicating models or not, and 2) whether or not there is a need for catch-all language to address incidental things that become a part of the record, e.g., photographs, models, etc. Mr. Houston also stated that there needs to be a reasonable balance struck between the cost to the office as well as allowing the patient to have a reasonable access getting copies of the records if they need it.

Dr. Villarreal stated that Staff has been directed to bring language forward for Committee consideration at the next meeting regarding this Rule.

Dr. Villarreal reported that discussions regarding an amendment to rules pertaining to diagnostic radiographs is still under review and has been Tabled to a future Committee Meeting.

Dr. Villarreal reported that the Committee unanimously approved the adoption of amendments to Rule 107.102, the repeal of Rule 107.103, and the adoption of New Rules 107.103 and 107.110. No comments were received on these rules and will be proposed later in this meeting for Board consideration and vote.

**b. Licensing and Examination Committee Report.**

Dr. Irons reported that the Licensing and Examination Committee did not meet because a quorum was not present.

**c. Government Relations Committee Report.**

Dr. Irons reported that Government Relations Committee did not meet because both Chairs were unable attend the meeting.

**d. Medicaid Fraud Ad-Hoc Committee Report.**

Dr. Irons reported that Dr. McDonald has no report to submit at this time.

**5. OTHER REPORTS.****a. Enforcement Database Report.**

Dr. McDonald reported that the new database is due to roll-out on, or about, September 1, 2006 commensurate with the beginning of the new fiscal year.

Dr. McDonald introduced Mr. Shannon Swenson of Stream Studios who presented a slide show covering the Enforcement Database entitled, "TSBDE Tooth Ferret (Enforcement and Legal Case Management: State of the Application)."

**b. Professional Recovery Network (PRN) Report.**

Ms. Holly Johnson provided the PRN Fiscal Year 2005 Second Quarter Report covering the Athena Software Project, PRN Advisory Committee, PRN Regional Network, Marketing to Dental Hygienists, PRN Employee Transitions, the PRN Handbook, and PRN Policies and Procedures.

Ms. Johnston stated that she will be attending a meeting at the University of Utah School of Alcoholism and Other Drug Related Dependencies in June.

Ms. Johnston reported that PRN is working with the NCPS Drug Screening Administrator to address complications related to implementing the Urine Ethyl Glucuronide (EtG) testing. She also reported that a first draft of the Participant Satisfaction Survey has been completed and will be discussed at the September Advisory Committee Meeting.

Ms. Johnston stated that as a part of PRN's process of reviewing Mental Health Professional's (MHPs) and Treatment Centers that individuals are referred, site visits will be conducted by PRN staff currently.

Ms. Johnston concluded her report reporting on projects recently completed that include the PRN Spring Seminar and Advisory Meeting and Medical Review Officer Project.

**c. Dental Hygiene Advisory Committee (DHAC) Report.**

Ms. Sosa reported that the DHAC met on March 18, 2005. Business included the discussion and unanimous support of the amendment to Rule 102.1 (Fee Schedule). The Committee supports the recommendation that an ad-hoc committee be formed to review dental hygienists using lasers as diagnostic tools, as it is a Scope of Practice issue.

Mr. Sosa stated that the DHAC discussed and reviewed the Dental Hygiene WREB Examiner applications and is recommending Ms. Tracy King as a Dental Hygiene WREB Examiner in FY 05-06. Modifications to the current application and instruction were also recommended for clarification.

Ms. Sosa closed her report stating that Mr. Hill announced at the meeting that the statutory language creating the need for Chapter 105, Alternative Dental Hygiene Program has expired and that this rule will be proposed for repeal later in this meeting.

**A MOTION WAS MADE BY MS. SOSA, SECONDED BY MR. WETHERBEE, TO RECOMMEND MS. TRACY M. KING, RDH., TO SERVE AS A TEXAS DENTAL HYGIENE WREB EXAMINER AND FURTHER DIRECTS STAFF TO NOTIFY WREB OF THIS APPOINTMENT. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**d. American Association of Dental Examiners (AADE) Report.**

Dr. Malik reported on the March 2005 AADE Meeting which included an update on discussions regarding the National Practitioner Database, ADA Principles of Ethics, and Codes of Professional Conduct and the National Examination.

**e. Western Regional Examining Board (WREB) Report.**

Dr. Malik reported that WREB continues to make improvements to its exam and that Examination Development Committee recommends creating a new evaluation process designed specifically for graduating seniors in accredited dental education program.

Dr. Malik extended an invitation from the President of the Western Conference of Dental Examiners and Dental School Deans to all Western dental and dental hygiene examiners, the opportunity to attend their Annual Meeting on July 22-24, 2005 in Oregon.

Dr. Malik stated that WREB has requested more examiners and nominated three dentists to serve as Texas Dental Hygiene WREB Examiners: Dr. Beverly Zinzer, Dr. Daniel Matthews, and Dr. Warren Branch.

**A MOTION WAS MADE BY DR. MALIK, SECONDED BY DR. STUBBS, TO APPROVE THE NOMINATION OF DRS. ZINZER, MATTHEWS, AND BRANCH TO SERVE AS TEXAS DENTAL HYGIENE WREB EXAMINERS . (FOR – 9 / OPPOSED – 0 / ABSECTIONS – 1) MOTION CARRIES**

Dr. Tippit proposed for consideration at the next Board Meeting the development of a protocol where individuals are carefully selected to serve as WREB examiners. He further suggested these individuals be considered for serving as Enforcement Consultants. Dr. Irons concurred.

Dr. Malik closed her report thanking the Board for allowing her to serve as the Liaison to AADE and WREB and recommended Dr. Paul Stubbs to serve as her replacement.

**f. WREB ERC RDH Report.** Dr. Irons stated that no report will be provided since Ms. McKibben is absent from today's meeting.

**6. ITEMS FOR GENERAL DISCUSSION.**

Dr. Irons announced that discussion and consideration of Public Complaints Regarding the Accuracy of Information being Provided in Continuing Education Courses will be Tabled to a future Board Meeting as Ms. Allen is not present to lead the discussion.

**7. RULES.**

**a. Discuss and Consider the Adoption of New Rule 116.10 – Prosthetic Identification.**

Mr. Hill reported on the adoption of New Rule 116.10 concerning prosthetic identification stating the new section reinstates the language of previous Rule 116.11, which was repealed effective May 17, 2004.

Mr. Hill stated there were no comments received on the adoption of this rule and no changes made to the existing proposed language.

**A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. MASON, TO ADOPT NEW RULE 116.10 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**b. Discuss and Consider the Adoption of Amendments to Rule 107.102 – Procedures in Conduct of Investigation.**

Mr. Hill reported on the adoption of amendments to Rule 107.102 concerning procedures in conduct of investigations stating that the adopted amendments remove from Rule 107.102, subsections (g) through (j). The language contained in those subsections addressed dismissal of cases, and have been relocated to a new Rule 107.103. The adopted amendments also more accurately reflect that the director of enforcement may only recommend, and not dictate, the manner of disposition of complaints.

Mr. Hill further reported that there were no comments received regarding the adoption of these amendments.

**A MOTION WAS MADE BY DR. STUBBS, SECONDED BY DR. MASON, TO ADOPT AMENDMENTS TO RULE 107.102 AND DIRECTS STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**c. Discuss and Consider the Adoption of the Repeal of Rule 107.103 – Compliance.**

Mr. Hill reported on the repeal of Rule 107.103 stating that the repeal allows for a New Rule 107.103 regarding dismissal, and that the language previously residing in Rule 107.103 will appear in New Rule 107.110. This restructure will provide better structure and flow in the chapter.

Mr. Hill stated there were no comments received regarding the adoption of this repeal.

**A MOTION WAS MADE BY DR. MASON, SECONDED BY MS. JUBA, TO ADOPT THE REPEAL OF RULE 107.103 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**d. Discuss and Consider the Adoption of New Rule 107.103 – Dismissal of Complaints.**

Mr. Hill reported on the adoption of New Rule 107.103 stating that the new rule relocated language regarding dismissal that was previously contained in Rule 107.102 as well as to enact certain requirements imposed by Senate Bill 263. Mr. Hill further stated that the repeal of the current Rule 107.103 and a New Rule 107.110 will contain language that previously resided in Rule 107.103.

Mr. Hill stated that there were no comments received regarding the adoption of this new rule. The section as adopted differs from the section initially proposed only in that the title has been changed from “Dismissal of Cases” to “Dismissal of Complaints” to be more consistent with the language of this and neighboring sections.

Mr. Hill stated there were no comments received regarding the adoption of this new rule.

**A MOTION WAS MADE BY DR. MASON, SECONDED BY MS. JUBA, TO ADOPT NEW RULE 107.103 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**e. Discuss and Consider the Adoption of New Rule 107.110 – Compliance.**

Mr. Hill reported on the adoption of New Rule 107.110 stating that the new rule relocates language that previously resided in Rule 107.103.

Mr. Hill stated that the adopted text differs from the previous text in that it removes language that has proven extraneous and over-specific in its description of the computer database system to be employed for compliance purposes. The adopted language also eliminates the need for the director of enforcement to coordinate with the executive and board secretary before initiating a complaint against a licensee for non-compliance with a board order.

Mr. Hill stated that there were no comments received regarding the adoption of this new rule.

**A MOTION WAS MADE BY DR. STUBBS, SECONDED BY MR. WETHERBEE, TO ADOPT NEW RULE 107.110 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**f. Discuss and Consider the Adoption of Amendments to Rule 102.1 – Fee Schedule.**

Mr. Hill reported on the adoption of the repeal to Rule 102.1 concerning fees charged by the Board and on the adoption of New Rule 102.1 to replace it. Mr. Hill stated that the new section contains language to enact certain fee requirements imposed by Senate Bills 1152 and 263. Mr. Hill added that the new rule, compared to the previous iteration, also contains extensive revisions to clarify and standardize language, and to improve organization.

Mr. Hill reported that there were no comments received regarding the repeal or adoption of this rule.

**A MOTION WAS MADE BY DR. TIPPIT, SECONDED BY MR. WETHERBEE, TO ADOPT AMENDMENTS TO RULE 102.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**g. Discuss and Consider the Proposal of the Repeal of Chapter 105 – Alternative Dental Hygiene Program.**

Mr. Hill reported that these regulations arise from Occupations Code 256.0531, which requires that the Board adopt and develop an “Alternative Dental Hygiene Training Program” that would govern “Alternative Dental Hygiene Training Programs” developed and submitted by dentists and dental hygienists wishing to provide such training.

Mr. Hill reported that no programs were accredited and the Board’s program expired on December 31, 2004.

**A MOTION WAS MADE BY DR. IRONS, SECONDED BY DR. TIPPIT, TO PROPOSE THE REPEAL OF CHAPTER 105 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 30 DAYS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**h. Discuss and Consider the Proposal of Amendments to Rule 115.1(2) – Definitions.**

Dr. Irons reported that this Rule has been Tabled pending further review and consideration of a subcommittee yet to meet.

## **8. DIVISION REPORTS.**

### **a. Licensing Division.**

#### **(1) Discuss and Consider Approval of Parenteral Anesthesia Permit Applications.**

Dr. McDonald reported that 13 practitioners have submitted Parenteral Anesthesia Permit Applications. The qualifications and credentialing of these individuals have been ascertained and submit a motion that these permits be granted.

**A MOTION BY DR. MCDONALD, SECONDED BY DR. STUBBS, TO APPROVE 13 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

#### **(2) Discuss and Consider Approval of Nitrous Oxide Permit Applications.**

Dr. McDonald reported that 49 practitioners have submitted Nitrous Oxide Permit Applications. These applications have been reviewed by him and Staff and are hereby being submitted to the Board for approval.

**A MOTION BY DR. MCDONALD, SECONDED BY DR. TIPPIT, TO APPROVE 49 NITROUS OXIDE PERMIT APPLICATIONS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

#### **(3) Discuss and Consider Approval of Enteral Conscious Sedation Permit Applications.**

Dr. McDonald reported that 67 Enteral Conscious Sedation Permit applications. These applications have been reviewed by him and Staff and have been found to meet the criteria and credentialing necessary for permitting.

**A MOTION BY DR. MCDONALD, SECONDED BY DR. MALIK TO APPROVE 67 ENTERAL CONSCIOUS SEDATION PERMIT APPLICATIONS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

#### **(5) Licensing Division Second Quarter Report.**

Ms. Sanders reported on the statistics for the Licensing Division.

### **b. Enforcement Division Report.**

#### **(1) Enforcement Division Case Aging, First Quarter Reports.**

Mr. Ablon presented the Enforcement Division Second Quarter Report covering the number of closed and dismissed cases and the Case Aging Report on on-going investigations.

#### **(2) Appointment of New Dental Consultants.**

Mr. Ablon recommended to the Board the appointment of Former Board Member, Dr. James Kennedy, as a Dental Consultant.

**A MOTION WAS MADE BY DR. MASON, SECONDED BY DR. MCDONALD, TO APPROVE THE APPOINTMENT OF DR. JAMES KENNEDY AS A DENTAL CONSULTANT. (FOR – 10 / OPPOSED – 0) MOTION CARRIES**

**(3) Staffing.**

Mr. Ablon reported that Investigator Ron Sillavan has accepted a new position with another State agency.

**c. Administration Division Report.**

Ms. McPherson provided a report on the FY 2005 Budget and on LBB Performance Measures.

**d. Legal Division Report.****(1) Discuss and Consider Approval of State Office of Administrative Hearings (SOAH) Settlement Orders.**

Mr. Houston read through the Agreed Settlement Orders that came as a result of State Office of Administrative Hearings (SOAH) action. Dr. Villarreal was asked to recuse himself from the matter having served as the Board's Representative in a mediation held on February 16, 2005.

Mr. Houston read the Agreed Settlement Order regarding Dr. Brandon E. Warren, DDS, SBDE No. 04-152-1031; SOAH No. 504-04-2744, followed by a presentation of the case by Mr. Lorenzo Nieto, Staff Attorney.

Mr. Jon Porter, Attorney with McDonald, Mackay & Weitz, LLP, representing Dr. Warren was available to respond.

Following discussion, the Proposed Board Order was amended and agreed upon by the TSBDE and Mr. Porter, attorney for Dr. Warren.

**A MOTION BY MR. GARCIA, SECONDED BY DR. TIPPIT, TO APPROVE THE AMENDED PROPOSED BOARD ORDER ON DR. BRANDON E. WARREN. (FOR - 6 / OPPOSED - 3 / 1 - RECUSED) MOTION CARRIES**

Mr. Houston read through the remaining SOAH Settlement Orders below:

00-063-0929	01-280-0302
04-015-0909; 04-621-0406	05-0027-0909
SOAH Docket No. 504-05-3333; SBDE No. 00-539-0530; 01-580-0525DI; 04-352-0112	

**A MOTION WAS MADE BY MR. GARCIA, SECONDED BY DR. TIPPIT, TO APPROVE THE SETTLEMENT ORDERS FROM SOAH ACTION. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.****(2) Proposals for Decision.**

Dr. Irons announced that the Board will now hear Proposals from Staff and Respondent regarding the matter of Dr. Misty J. Brown, SBDE Nos. 03-707-0512, 03-709-0513, 03-770-0630, 03-816-0619 and SOAH No. 504-04-0157. He further stated for the record, that he recuses himself from this matter having been a participant in the Hearing at the State Office of Administrative Hearings.

Proposals were received from Staff and Respondent which were not adopted; however, the Board engaged in discussion until it arrived at a final decision on a Board Order.



Dr. Irons stated that Dr. Tippit will also be recused from the vote. He then called upon Dr. Villarreal to conduct a Roll Call vote.

Mr. Garcia – Accept.  
 Ms. Juba – Accept.  
 Dr. McDonald – Nay.  
 Dr. Malik – Deny.  
 Dr. Mason – Accept.  
 Dr. Stubbs – Accept.  
 Dr. Strunk – Deny.  
 Mr. Wetherbee – Accept.  
 Dr. Villarreal – Accept.

**A MOTION WAS MADE BY DR. MASON, SECONDED BY MS. JUBA, TO AMEND AND APPROVE THE PROPOSED BOARD ORDER PRESENTED BY STAFF ON THE MATTER REGARDING DR. MISTY J. BROWN (FOR – 6 / OPPOSED – 3 / RECUSED – 2) MOTION CARRIES**

**(3) Proposed Board Orders (PBOs).**

Mr. Houston read through the Proposed Board Orders as follows:

04-977-0716	03-769-0603	05-0474-0113
04-611-0330	05-0519-0113	05-0564-0114
05-0567-0114	05-0568-0114	03-764-0530
05-0540-0114	03-176-1104	03-497-0227; 03-240-0227
04-724-0503	03-771-0603	05-0477-0113
05-0516-0113	05-0679-0209	05-0681-0209

Case Number 03-135-1016 was removed from consideration and vote.

**A MOTION WAS MADE BY DR. STUBBS, SECONDED BY DR. TIPPIT, TO APPROVE THE PROPOSED BOARD ORDERS AS REFLECTED ABOVE WITH THE EXCEPTION OF CASE NUMBER 03-135-1016 WHICH WAS REMOVED FROM CONSIDERATION AND VOTE. (FOR – 10 / OPPOSED – 0)**

**(4) Board Informal Settlement Conference (ISC) Settlement Orders.**

Mr. Houston read Settlement Order 02-313-0118 from the **February 12-13, 2004 ISC**, Panelists: Dr. Irons, Dr. Mason and Mr. Garcia.

**A MOTION WAS MADE BY DR. STRUNK, SECONDED BY DR. TIPPIT, TO APPROVE SETTLEMENT ORDER 02-313-0118 FROM THE FEBRUARY 12-13, 2004 BOARD ISC. (FOR – 8 / OPPOSED – 0 / ABSTENSIONS - 2) MOTION CARRIES**

Mr. Houston read Settlement Orders from the **October 7-8, 2004 ISC**, Panelists: Drs. Tippit, Strunk and Mr. Wetherbee.

03-538-0313; 03-848-0701; 04-172-1106  
 04-090-1006; 03-263-1212

**A MOTION WAS MADE BY DR. MASON, SECONDED BY MR. GARCIA, TO APPROVE SETTLEMENT ORDERS FROM THE OCTOBER 7-8, 2004 ISC. (FOR – 7 / OPPOSED – 0 / ABSTENTIONS – 3) MOTION CARRIES**

Mr. Houston read the Settlement Orders from the December 2-3 2004 ISC. Panelists: Drs. Villarreal, Strunk, and Ms. Stine.

03-626-0415; 03-932-0729

**A MOTION WAS MADE BY MR. GARCIA, SECONDED BY MS. JUBA, TO APPROVE SETTLEMENT ORDERS FROM THE DECEMBER 2-3, 2004 ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS – 2) MOTION CARRIES**

Mr. Houston read the Settlement Orders from the February 17-18, 2005 ISC. Panelists: Dr. Irons and Mr. Wetherbee.

03-170-1030  
03-966-0812  
03-248-1206; 03-904-0721  
01-769-0827; 02-360-0207; 03-157-1025; 03-221-1121  
04-923-0630  
04-924-0701

**A MOTION WAS MADE BY DR. STUBBS, SECONDED BY DR. STRUNK, TO APPROVE SETTLEMENT ORDERS FROM THE FEBRUARY 17-18, 2005 ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read the Settlement Orders from the March 31-April 1, 2005 ISC. Panelists: Dr. McDonald, Ms. McKibben, Mr. Wetherbee

04-1014-0729; 04-1079-0818; 05-0120-1008  
04-486-0226; 04-812-0526; 04-817-0527; 04-829-0601

**A MOTION WAS MADE BY DR. MASON, SECONDED BY MR. GARCIA, TO APPROVE SETTLEMENT ORDERS FROM THE MARCH 31-APRIL 1, 2005 ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS – 2) MOTION CARRIES**

**(5) Staff Informal Settlement Conference Settlement Orders.**

Mr. Houston read Settlement Order 04-950-0712 from the November 4-5, 2004 Staff ISC. Panelist: Dr. Stubbs

**A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. MASON, TO APPROVE SETTLEMENT ORDER 04-950-0712 FROM THE NOVEMBER 4-5, 2004 ISC STAFF. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read Settlement Order 03-874-0710 from the December 9, 2004 Staff ISC. Panelist: Dr. Irons

**A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. STUBBS, TO APPROVE SETTLEMENT ORDER 03-874-0710 FROM THE DECEMBER 9, 2004 STAFF ISC. (FOR - 10 / OPPOSED – 0 / ABSTENTIONS – 0) MOTION CARRIES**

Mr. Houston read Settlement Order 03-404-0203 from the December 16, 2004 Staff ISC. Panelist: Dr. Stubbs

**A MOTION WAS MADE BY DR. MASON, SECONDED BY MS. JUBA, TO APPROVE SETTLEMENT ORDER 03-404-0203 FROM THE DECEMBER 16, 2004 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read through the Settlement Orders from the December 17, 2004 Staff ISC. Panelist: Dr. Mason

03-319-0103

04-651-0415

03-043-0916

**A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. VILLARREAL, TO APPROVE THE SETTLEMENT ORDERS FROM THE DECEMBER 17, 2004 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read through the Settlement Orders from the January 21, 2005 Staff ISC. Panelist: Dr. Mason

04-631-0407

03-851-0702

02-867-0823

**A MOTION WAS MADE BY DR. TIPPIT, SECONDED BY DR. STRUNK, TO APPROVE THE SETTLEMENT ORDERS FROM THE JANUARY 21, 2005 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read through the Settlement Orders from the February 24, 2005 Staff ISC. Panelist: Dr. Stubbs

04-1010-0728

03-564-0324; 03-664-0428

**A MOTION WAS MADE BY DR. MASON, SECONDED BY DR. MCDONALD, TO APPROVE THE SETTLEMENT ORDERS FROM THE FEBRUARY 24, 2005 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read through the Settlement Orders from the February 25, 2005 Staff ISC. Panelist: Dr. Villarreal

04-159-1104; 04-250-1126

03-508-0305

04-942-0708

**A MOTION WAS MADE BY DR. STUBBS, SECONDED BY DR. TIPPIT, TO APPROVE THE SETTLEMENT ORDERS FROM THE FEBRUARY 25, 2005 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read through the Settlement Orders from the March 24, 2005 Staff ISC. Panelist: Dr. Stubbs

03-456-0214

04-984-0719

04-252-1125

03-767-0603

**A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. STRUNK, TO APPROVE THE SETTLEMENT ORDERS FROM THE MARCH 24, 2005 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

Mr. Houston read through Settlement Order 03-436-0211 from the April 15, 2005 Staff ISC. Panelist: Dr. Malik

**A MOTION WAS MADE BY DR. STRUNK, SECONDED BY DR. STRUNK, TO APPROVE SETTLEMENT ORDER 03-436-0211 FROM THE APRIL 15, 2005 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES**

**(6) Legal Division Report.**

Mr. Houston presented the Legal Division Case Report for March as well as 2<sup>nd</sup> Quarter Report covering the number of cases closed and those received and returned to the Enforcement Division.

Mr. Houston summarized the cases processed through Informal Settlement Conferences, providing statistics regarding Proposed Board Orders, Legal Case Closures, and SOAH Actions. He also provided a projection on case resolution and current number of cases within the division. Mr. Houston concluded his report by giving an update on division staffing.

Mr. Houston stated that Board Members have been provided a list of future Settlement Conferences dates and asked to indicate their availability to serve and return the list to him as soon as possible.

Mr. Garcia asked if there were any cases pending in the District Courts.

Mr. Houston responded that the Rabinowitz case is pending action in the District Courts. He further added that the Board has voted on a settlement to resolve this matter and once approved by the Attorney General (AG) it will be forwarded to the Governor for signature.

Mr. Houston reported that two other cases remain pending, the Ramirez case which is a revocation that recently went back to SOAH for re-filing. He stated that this case may possibly be heard at the August 2005 Meeting. The second case is on Dr. Blake Sinclair. This case is at the District Court and that this case may be taken to SOAH.

**(7) Report of Liaison to Legal Division for SOAH Resolution.**

Mr. Garcia reported that cases being filed and resolved at SOAH remain on track.

**9. EXECUTIVE DIRECTOR'S REPORT.**

Mr. Schmidt expressed his appreciation to Board Members and Agency Directors for their continued support and assistance during this Legislative Session.

Mr. Schmidt presented a report on the third quarter goals and objectives for each division in the agency. He stated that the Executive Division continues to gain support for the LAR Exceptional Items and Compensation Parity. The Legal Division is completing the 2005 ISC staffing and SSC staffing, preparing cases for SOAH and pursuing online research access. The Enforcement Division continues with securing mandated training, completing the investigations in less than 100 days, and obtaining a case age of under 120 days for all on-going investigation. The Licensing Division continues to explore options to rewrite the radiology examination, prepares for an Ad-hoc Committee regarding laser issues within the realm of dental hygiene, and sending application packets to all DDS and RDH Program Directors to distribute to 2005 graduates. The Administrative Division is preparing the quarterly budget, updating legislative books and personnel manuals and putting things in order for an audit from the State Auditor's Office.

Mr. Schmidt reported on a legislative presentation he gave at the Annual Educational Conference of the Dental Laboratory Association of Texas. He also presented a briefing on the Dental Practice Act and Board Rules to the Dental Hygiene class at the University of Texas Health Science Center Dental School – San Antonio.

Mr. Schmidt concluded his report by reminding Board Members that May 2, 2005 is the deadline for filing their Personal Financial Statement with the Texas Ethics Commission. He also asked that if there are any changes to hotel accommodations, or reservations, to notify Executive Division Staff as soon as possible. Lastly, he encouraged the Members to return the Settlement Conference Availability Form to Mr. Houston as soon as possible.

**10. EXECUTIVE SESSION.**

The Board conducted a closed meeting to receive legal advice, discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific board employees pursuant to Sections 555.071 and 551.074, the Texas Open Meetings Act, codified as Chapter 551 of the Government Code.

**11. PRESIDING OFFICER'S REPORT.**

Dr. Irons shared his appreciation for serving as Presiding Officer and further recognized those Board Members who will also be departing the Board when their appointment ends.

**12. PUBLIC COMMENTS.**

Mr. Jay Bond from the Texas Dental Association shared his thanks to the departing Members of the Board.

**13. ANNOUNCEMENTS.**

a. Dr. Stubbs asked that a discussion be conducted at the next meeting, regarding the Board's dual-membership with the Central Regional Dental Testing Center (CRDTS) and the Western Regional Examining Board (WREB).

b. Dr. Irons announced that there would be no June meeting of the TSBDE that the next meeting scheduled will be on August 19, 2005.

**14. ADJOURN. A MOTION WAS MADE BY DR. MASON, SECONDED BY DR. STUBBS, TO ADJOURN THE MEETING AT 4:05 P.M. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.**

-- SIGNED --

-- SIGNED --

**GARY MCDONALD, D.D.S.**  
Presiding Officer  
Texas State Board of Dental Examiners

**JUAN D. VILLARREAL, D.D.S.**  
Secretary  
Texas State Board of Dental Examiners

**Date: August 19, 2005**

**Date: August 19, 2005**